

Original

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BARBARA ANN MARTENEY,

Defendant.

No. 89-CR-83-E ✓

REPORTER'S TRANSCRIPT OF PROCEEDINGS

HAD ON NOVEMBER 29, 1989

PLEA OF GUILTY

BEFORE THE HONORABLE JAMES O. ELLISON, Judge.

APPEARANCES:

For the Plaintiff:

Jack Morgan
Assistant United States Attorney
3600 United States Courthouse
Tulsa, Oklahoma 74103

For the Defendant:

Ronald C. Bennett
Attorney at Law
16 East 16th
Tulsa, Oklahoma 74119

Glen R. Dorrough
UNITED STATES COURT REPORTER

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

DEC 22 1989

FILED

PROCEEDINGS

November 29, 1989

THE COURT: Please be seated, ladies and gentlemen.
United States of America vs. Barbara Ann Marteney. Am I
pronouncing that correctly?

MR. MORGAN: Yes, sir.

MR. BENNETT: Yes, Your Honor.

THE COURT: Jack Morgan appears for the government,
Ron Bennett for the defendant, and Ms. Marteney in person. She
may come forward if she would. Mr. Bennett, any statement to
be made to the Court?

MR. BENNETT: Your Honor, no, not at this time.

THE COURT: Well --

MR. BENNETT: I'm sorry, yes, Your Honor, excuse me.
Your Honor, at this time the defendant wishes to enter her plea
of guilty to the count contained in the indictment.

THE COURT: Would the clerk please administer the
oath.

THE CLERK: Do you solemnly swear your testimony will
be the truth, the whole truth and nothing but the truth, so
help you God?

THE DEFENDANT: I do.

THE COURT: Ms. Marteney, you know you are entitled to
a jury trial and your lawyer says that you desire to waive a
jury and enter a plea of guilty, but this is something he

1 cannot do for you, do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And it necessitates your persuading the
4 Court that you know what you're doing in giving up a jury trial
5 and pleading guilty.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And that means that I have to ask you
8 quite a few questions so that this record and the Court both
9 understand what your intent is.

10 To begin with, do you understand if you're tried by a
11 jury you have the right to confront and cross-examine the
12 witnesses against you?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You have the right to the assistance of
15 your lawyer throughout the entire proceedings.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You have the right not to be compelled to
18 take the witness stand and give evidence against yourself.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And the burden would be on the government
21 at all times to establish your guilt beyond a reasonable doubt,
22 do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: If you -- and I further advise you that in
25 order to convict you all 12 members of the jury would have to

1 unanimously agree as to your guilt.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand this these things?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand that if you waive a jury
6 or give up a jury the Court alone will determine the fact of
7 guilt or innocence?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Understanding what we've talked about, is
10 it still your desire to waive or give up your right to a jury
11 trial?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You may sign the waiver of jury. The
14 Court is approving your waiver of jury. And I know that you
15 have discussed this with Mr. Bennett and you've reviewed the
16 indictment against you, but it's necessary at this time that we
17 review the indictment together.

18 Would you provide her with a copy, Mr. Bennett?

19 The indictment charges it's a conspiracy to
20 manufacture or possess with intent to distribute and to
21 distribute methamphetamine and it charges as follows:

22 "That beginning in or about September, 1987, and
23 continuing through and including February 16, 1989, defendants
24 Loren Eugene Hall, Sr., Kent Patrick Thimmesch and Paul Richard
25 Lassley, Loren Eugene Hall, Jr., Barbara Ann Marteney, David

1 Royse Ladd and Michael Steven Hall, and other co-conspirators,
2 both known and unknown to the grand jury, did wilfully and
3 knowingly combine, conspire, confederate and agree to commit of
4 offenses against the United States in violation of Title 21,
5 United States Code, Section 846 as follows:

6 "To knowingly and intentionally manufacture
7 methamphetamine, a Schedule II stimulant controlled substance,
8 contrary to Title 21, United States Code, Section 841(a)(1) and
9 to knowingly and intentionally possess with intent to
10 distribute methamphetamine, a Schedule II stimulant controlled
11 substance, contrary to Title 21, U.S. Code Section 841(a)(1).

12 "(3) to knowingly and intentionally distribute
13 methamphetamine, a Schedule II stimulant controlled substance,
14 contrary to Title 21, United States Code, 841(a)(1).

15 "Means of the conspiracy: The Objects and means of
16 the conspiracy would be accomplished and were accomplished by
17 the defendants and other co-conspirators as follows."

18 And I will go down to the portion involving you.

19 Paragraph 4.

20 "Loren Eugene Hall, Sr., Loren Eugene Hall, Jr.,
21 Barbara Ann Marteney, and others both known and unknown to the
22 grand jury, would and did knowingly distribute methamphetamine.

23 "To effect the objects of the conspiracy, the
24 defendants named herein and other co-conspirators committed
25 diverse overt acts within the Northern District of Oklahoma and

1 elsewhere, among which were the following," and then three
2 involving you.

3 "In or about September or October, 1987, Barbara Ann
4 Marteney in Texas sold methamphetamine and delivered money
5 therefrom to Loren Eugene Hall, Sr."

6 And then overt act number 12: "In or about October or
7 November, 1988, Loren Eugene Hall, Sr. and Barbara Ann Marteney
8 diluted methamphetamine with Ephedrine in or near Mesquite,
9 Texas.

10 "(13) In or about November or December, 1988, Barbara
11 Ann Marteney and Loren Hall, Sr., in Texas, sold
12 methamphetamine for profit.

13 "(19). On or about February 15, 1989, in or near
14 Mesquite, Texas, Loren Eugene Hall, Jr. dictated to Barbara Ann
15 Marteney who wrote down a list of needed laboratory glassware
16 and chemicals."

17 Do you understand what you are charged with?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand also that forfeiture may
20 and shall be ordered to the United States by this Court.

21 And does that apply to this defendant, is there
22 forfeiture in regard to any of this defendant's property?

23 MR. MORGAN: No, Your Honor, this defendant appears to
24 have no assets that are subject to forfeiture.

25 THE COURT: Very well, the forfeiture provision would

1 not apply, but you do understand what you are charged with in
2 the indictment?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand that if you enter a plea
5 of guilty that the Court can impose both a term of imprisonment
6 and a monetary fine?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that the maximum
9 sentence which the court could impose under the law would be a
10 period of 20 years imprisonment and one million dollars fine or
11 both, do you understand that?

12 Do you understand that the Court would also have to
13 impose a \$50 special assessment?

14 Do you understand that the Court, pursuant to
15 sentencing guidelines, must impose a term of supervised release
16 in addition to any incarceration?

17 Do you understand that although this Court is required
18 to follow the applicable sentencing guidelines in some special
19 instances the Court might depart from those guidelines under
20 special circumstances, do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: How old are you, Ms. Marteney.

23 THE DEFENDANT: 34.

24 THE COURT: Do you make your plea of guilty
25 voluntarily and completely of your own free choice?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Here in the courtroom are you under the
3 influence of any drugs or medication or alcohol?

4 THE DEFENDANT: Those no, sir.

5 THE COURT: Have you been forced or threatened in any
6 way or promised anything by any person to plead guilty?

7 THE DEFENDANT: No, sir.

8 THE COURT: Do you consider yourself to be a mentally
9 competent woman?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you ever been treated for mental
12 illness?

13 THE DEFENDANT: No, sir.

14 THE COURT: How far are you able to go school, through
15 school?

16 THE DEFENDANT: I graduated from high school and went
17 to a year of college.

18 THE COURT: Are you satisfied with the services of
19 your attorney, Mr. Bennett?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand you have a right to
22 plead not guilty and put the burden upon the United States to
23 establish your guilt?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: I would ask Mr. Morgan and Mr. Bennett

1 whether there has been any agreement as to possible sentence in
2 this case?

3 MR. MORGAN: No, sir.

4 THE COURT: Mr. Bennett?

5 MR. BENNETT: No, sir, Your Honor, there has not.

6 THE COURT: And is that your understanding?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: The Court will at this point review the
9 agreement, the written agreement between the United States and
10 the defendant which is attached to the petition to plead
11 guilty.

12 The Court approves the form of agreement and the
13 subject of the agreement, the contents of the agreement between
14 the United States and this defendant.

15 Now, understanding the charges against you, Ms.
16 Marteney, your right to a jury trial and the effect and
17 consequences of your plea, how do you plead to the indictment?

18 THE DEFENDANT: Guilty.

19 THE COURT: Tell me what you did? I mean by that
20 explain to me how this agreement was reached, if it was
21 reached, when it took place and generally what you did?

22 THE DEFENDANT: Do you want to know how it started
23 with my father?

24 THE COURT: Yes.

25 THE DEFENDANT: I hadn't seen by dad for --

1 THE COURT: Here is what we're trying to do at this
2 point, and at time of sentencing and prior to sentencing the
3 probation office will have a full report of your version of how
4 you became involved in it. All I'm doing at this point is
5 trying to satisfy myself that you are truly guilty of all of
6 the elements of the offense, and all I need to know at this
7 point is whether or not starting in September of '87 you and
8 your father, your brother, and these other people charged in
9 the indictment, got together for the purpose of manufacturing
10 and possessing with intent to distribute and distributing
11 methamphetamine?

12 THE DEFENDANT: Yes. I introduced my father to
13 different cooks to get cooks started and after they were done
14 he brought the methamphetamine back for me to sell to him --
15 for him, and I gave him the money.

16 THE COURT: Was your principal involvement the selling
17 of it?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Was that in Texas and in Oklahoma.

20 THE DEFENDANT: Just Texas.

21 THE COURT: Just Texas. All right. Did in September,
22 October, '87, you sell methamphetamine as you've just told me
23 and deliver the money to your father?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And in October, November of '88 did you

1 delute methamphetamine with Ephedrine?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And that happened near Mesquite, Texas.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. And November, December, '88, did
6 you sell with your father methamphetamine for profit?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And did you around February 15, '89,
9 receive from your father a list which you wrote down for
10 laboratory glassware and chemicals?

11 MR. MORGAN: That was Junior.

12 THE DEFENDANT: That was my brother.

13 THE COURT: Oh, that was your brother. I misspoke,
14 you're absolutely right, that's your brother. Did you do
15 that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Morgan, is there anything else in
18 regard to the elements of the offense that the United States
19 feels necessary from this defendant?

20 MR. MORGAN: The venue problem, if the Court -- is
21 wondering about that.

22 THE COURT: I am, how do we connect with --

23 MR. MORGAN: Co-conspirators involved in this
24 particular case came to Tulsa and they purchased chemicals to
25 be utilized in the manufacture of the methamphetamine here at

1 Midtown Chemical on 11th Street. Those people included Loren
2 Hall, Sr., a person by the name of Steve Gruver who is an
3 unindicted co-conspirator and a government witness in this
4 case, principally were the ones that came to Tulsa to make the
5 chemical purchases and take them back to Kansas and also take
6 them back to Texas.

7 THE COURT: So the acquisition of the chemicals was
8 the Oklahoma contact, the Northern District contact?

9 MR. MORGAN: Yes, sir.

10 THE COURT: All right. In this conspiracy. And is
11 that your understanding, Mrs. Marteney?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You may sign the petition to plead guilty.

14 Ms. Marteney, based upon your responsive answers to
15 the Court's questions, I find that your plea of guilty is made
16 freely, voluntarily and because you are guilty as charged, that
17 you are don't make this plea out of any ignorance or fear or
18 inadvertence or mistake or coercion, and that you fully
19 understand the consequences of your plea.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: I further find that you've admitted the
22 essential elements of the crime charged in the indictment and
23 that you are mentally competent to enter this plea, and I
24 further find that there is a factual basis for this plea of
25 guilty. Therefore, I order that your plea of guilty be

1 accepted and entered as prayed for in your petition and as
2 recommended in the certificate of your lawyer, Mr. Bennett.
3 And I'm entering a formal order to that effect at this time.

4 Sentencing in your case is set for January 26th, 1990
5 in this courtroom at one-fifteen p.m.

6 Mr. Morgan, would you agree that Mr. Bennett could
7 provide evidence to the Court that Ms. Marteney is neither a
8 flight risk nor a danger to the community for purposes of bond
9 until the time of sentencing?

10 MR. MORGAN: Certainly, Your Honor. And there was, I
11 believe, a request by Mr. Bennett, if it hasn't been
12 communicated to Your Honor, that she might want to move to
13 Texas, and I certainly have no objection to that either.

14 THE COURT: Is that --

15 MR. BENNETT: That is correct. Your Honor, I believe
16 at the time of her arrest she was not living with her husband
17 who is in the Dallas area. At this point in time they have
18 made up their differences and are wanting to be back together.

19 THE COURT: That's fine. Is he living in the Dallas
20 area?

21 MR. BENNETT: And he is present in court today.

22 THE COURT: You would be living in the Dallas area?
23 You would be living in the Dallas area?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: The Court will approve the oral

1 application of the defendant to continue living in the Dallas,
2 Texas area until time of sentencing and we will address those
3 matters at that time. And I presume she will be placed with
4 the probation office in that area.

5 MR. MORGAN: Yes, sir. I believe Mr. Fields is here
6 this morning.

7 THE COURT: That's right. Mr. Fields --

8 MR. FIELDS: Yes, sir.

9 THE COURT: As far as information for the Court, I
10 suppose you will coordinate with the Dallas, Texas probation
11 office.

12 MR. FIELDS: Yes, Your Honor.

13 THE COURT: Okay, that's fine. The existing bond will
14 continue in full force and effect until time of sentencing.

15 And at this point -- unless there is anything further,
16 Mr. Morgan?

17 MR. MORGAN: I have nothing else, Your Honor.

18 THE COURT: Anything further, Mr. Bennett?

19 MR. BENNETT: Nothing further, Your Honor.

20 THE COURT: You will be excused. Thank you, Ms.
21 Marteney.

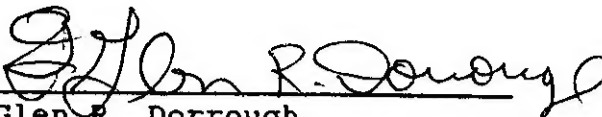
22 MR. MORGAN: Thank you very much.

23 THE COURT: Thank you, Mr. Morgan.

24 (Recess).
25

1 A TRUE AND CORRECT TRANSCRIPT.

2
3 CERTIFIED:



Glen R. Dorrough

4 United States Court Reporter

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